

Message

From: Elsen, Henry [Elsen.Henry@epa.gov]
Sent: 5/24/2019 6:17:20 PM
To: Mutter, Andrew [mutter.andrew@epa.gov]; Wardell, Christopher [Wardell.Christopher@epa.gov]
CC: Smidinger, Betsy [Smidinger.Betsy@epa.gov]
Subject: FW: Catch up
Attachments: DENVER-#617871-v1-BPSOU;_Daily_Meeting_Briefing_Memorandum___20180703.DOCX; Attachment 1 - Name Change case thoughts_20180506.docx

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Andrew and Chris:

I know you are putting together some briefing materials for RA Sopkin as he prepares to come to Butte. I found this July 18, 2018 memo regarding Fritz Daily issues we did for RA Benevento in prep for a similar visit, and thought I would send it to you now, to use as you see fit. It is a little outdated – I could update it if you want.

Henry Elsen
Senior Assistant Regional Counsel
CERCLA Enforcement Section
Office of Regional Counsel
U.S. EPA Region 8 Montana Office
Federal Building, Suite 3200
10 West 15th Street
Helena, Montana 59626
406 457-5030

From: Freeman, James (ENRD) <James.Freeman2@usdoj.gov>
Sent: Sunday, July 08, 2018 2:58 PM
To: Benevento, Douglas <benevento.douglas@epa.gov>; Hestmark, Martin <Hestmark.Martin@epa.gov>
Cc: Elsen, Henry <Elsen.Henry@epa.gov>; Vranka, Joe <vranka.joe@epa.gov>; Greene, Nikia <Greene.Nikia@epa.gov>
Subject: RE: Catch up

Doug,

Here's the briefing memo the team prepared regarding the issues Fritz Daily has raised as discussed below. Let us know if you have any questions.

Thanks, Jim

From: Benevento, Douglas <benevento.douglas@epa.gov>
Sent: Friday, July 6, 2018 9:01 AM
To: Hestmark, Martin <Hestmark.Martin@epa.gov>
Cc: Elsen, Henry <Elsen.Henry@epa.gov>; Vranka, Joe <vranka.joe@epa.gov>; Greene, Nikia <Greene.Nikia@epa.gov>; Freeman, James (ENRD) <JFreeman@ENRD.USDOJ.GOV>
Subject: Re: Catch up

That's perfect, thanks everyone

Sent from my iPhone

On Jul 6, 2018, at 6:10 AM, Hestmark, Martin <Hestmark.Martin@epa.gov> wrote:

Doug - we have drafted a briefing memo anticipating you might benefit from knowing where the teams interactions are and have been on the issues Fritz raises. If that is alright, we could deliver that to you later today or Monday. We can also try and get on your calendar early next week once people are back in the office? Does that work?

Sent from my iPhone

Begin forwarded message:

From: "Benevento, Douglas" <benevento.douglas@epa.gov>
Date: July 5, 2018 at 3:23:18 PM PDT
To: "Nylund, Erik (Tester)" <Erik_Nylund@tester.senate.gov>, Fritz Daily <buttedaily@bresnan.net>, David McCumber <david.mccumber@mtstandard.com>, "Villa, Dan" <DVilla@mt.gov>, "Hestmark, Martin" <Hestmark.Martin@epa.gov>, "Vranka, Joe" <vranka.joe@epa.gov>
Cc: David McCumber <david.mccumber@mtstandard.com>, Don Peoples <dpeoples@bresnan.net>, "evanbutte@bresnan.net" <evanbutte@bresnan.net>, Jim Kambich <jim.kambich@merdi.org>, Joe Shoemaker <jjshoemaker@ft.newyorklife.com>, Mary Jo McDonald <mjomcd@gmail.com>, Jim Fisher <jfinmt@gmail.com>, Ron Davis <rondavis@kbowkopr.com>, Susan Dunlap <susan.dunlap@mtstandard.com>, Pat Cunneen <PCunneen@mt.gov>
Subject: RE: Catch up

Erik, I welcome your participation. Fritz, I know we'll have a great discussion.

From: Nylund, Erik (Tester) [mailto:Erik_Nylund@tester.senate.gov]
Sent: Thursday, July 5, 2018 3:10 PM
To: Fritz Daily <buttedaily@bresnan.net>; Benevento, Douglas <benevento.douglas@epa.gov>; David McCumber <david.mccumber@mtstandard.com>; Villa, Dan <DVilla@mt.gov>; Hestmark, Martin <Hestmark.Martin@epa.gov>; Vranka, Joe <vranka.joe@epa.gov>
Cc: David McCumber <david.mccumber@mtstandard.com>; Don Peoples <dpeoples@bresnan.net>; evanbutte@bresnan.net; Jim Kambich <jim.kambich@merdi.org>; Joe Shoemaker <jjshoemaker@ft.newyorklife.com>; Mary Jo McDonald <mjomcd@gmail.com>; Jim Fisher <jfinmt@gmail.com>; Ron Davis <rondavis@kbowkopr.com>; Susan Dunlap <susan.dunlap@mtstandard.com>; Pat Cunneen <PCunneen@mt.gov>
Subject: RE: Catch up

Doug,

Since the presence of a Senate staffer might create a concern on some level for EPA, please consider my participation as a supportive and engaged Butte guy. We can all be honest and frank during this meeting. If it gets into something that puts either of us in a tight spot, I can always leave the room. I'm confident that won't happen and we can all walk out of the meeting with a better understanding of issues.

Best,
Erik

From: Fritz Daily <buttedaily@bresnan.net>
Sent: Thursday, July 5, 2018 2:58 PM
To: Benevento, Douglas <benevento.douglas@epa.gov>; David McCumber <david.mccumber@mtstandard.com>; Villa, Dan <DVilla@mt.gov>; Hestmark, Martin <Hestmark.Martin@epa.gov>; Vranka, Joe <vranka.joe@epa.gov>
Cc: David McCumber <david.mccumber@mtstandard.com>; Don Peoples <dpeoples@bresnan.net>; evanbutte@bresnan.net; Jim Kambich <jim.kambich@merdi.org>; Joe Shoemaker <jshoemaker@ft.newyorklife.com>; Mary Jo McDonald <mjomcd@gmail.com>; Jim Fisher <jfinmt@gmail.com>; Ron Davis <rondavis@kbowkopr.com>; Susan Dunlap <susan.dunlap@mtstandard.com>; Pat Cunneen <PCunneen@mt.gov>; Nylund, Erik (Tester) <Erik_Nylund@tester.senate.gov>
Subject: Re: Catch up

Doug,

After thinking about who to invite to our meeting, I decided it would be best to include a small group. That way we can have a frank and open honest discussion.

Thanks again for requesting this get-together. I assure you it will be positive and hopefully will lead to some successful resolution of the issues. As I have stated often---I believe Doug Benevento does care, is interested in doing what is right for Butte Montana and has given us access! We have not had that before. Hope I am right?

These are the folks I will invite to our meeting on the Thursday the 12th---Sister Mary Jo McDonald, Ron Davis, David McCumber, Don Peoples, Mick Ringsac, Jim Kambich, Joe Shoemaker, Evan Barrett, Erik Nylund, Jim Fisher and Pat Cunneen. I have not talked to all of them at this point, but am confident most will attend. I will copy them on this email.

I have scheduled the 5th. Floor Conference Room in the Thornton Building for the meeting. Let us know the time that works best for your schedule?

All of these folks are very knowledgeable of the cleanup and restoration issues of the community and have been actively involved for several years. **I am sure you will learn a great deal that you currently do not know.**

FYI---While Sister, Ron and I are the Silver Bow Creek Coalition members, most of these folks were involved in the decision process of our successful lawsuit against the State of Montana. We are also extremely interested in the Slag Canyon corridor. **As I have informed you in the past, Judge Newman wrote in his decision;**

1. ***"This litigation seeks to ensure that the State of Montana and its agencies follow the law."***

"In this case the Plaintiffs stand in the shoes of government. They are seeking as a private attorney general to force the State to act appropriately with respect to the State's waters held in trust for the public."

Article XI Section 3 of the Montana Constitution States---"All waters within the boundaries of the State are the property of the State, held in trust, for the use of its people."

Judge Newman also confirmed in his decision that the Creek is a watercourse and a "creek" and not a "sewer" as claimed by the State of Montana, the Environmental Protection Agency and Arco/BP.

He wrote; *"The issue raised in the Complaint is not what would happen to restoration of the creek should the State improperly change the name of the watercourse, but what already has occurred and will occur in the future as the result of the State's actions concerning the name of the creek without observing the statutory requirements to change its name."*

FYI---Mick and Jim are members of the Upper Clark Fork Advisory Council that has secured \$18 million for the Parrot Cleanup and Pat Cunneen is the most knowledgeable person on the technical issues. I personally believe it will take between \$70 and \$100 million to responsibly clean the entire corridor and do the job responsibly as we are guaranteed and assured of this by Superfund/State laws and the Montana Constitution to this result.

Thanks again, Hopefully Scott Pruitt's resignation will not effect our meeting.

Fritz

From: Benevento, Douglas

Sent: Tuesday, July 03, 2018 7:30 AM

To: Fritz Daily ; David McCumber ; Villa, Dan ; Hestmark, Martin ; Vranka, Joe

Subject: Catch up

Fritz, you and I had spoken about getting together to talk about the agreement and the Upper Silver Bow Creek when I was next in Montana. I'm going to be out there next week and was hopeful a group of us could together the evening of July 12 to talk. My schedule is a bit cramped but this is important to not just me, but also to Dan. He and I spoke and he was eager to participate as well. Can we make July 12 work? I was thinking about 6pm? We're happy to do it over dinner or wherever else you would like. I will rely upon you to invite whomever else would be value added to the discussion.

Thanks, I hope you're doing well, I meant to respond to some the emails you sent, particularly the one forwarding the NYT piece. A really well done story, primarily because of your contribution I think.

Happy Fourth of July!

Doug